

MDR Tracking Number: M5-04-0499-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-16-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The aquatic therapy and work hardening program were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 5th day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12-30-02 through 3-11-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 5th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

December 19, 2003

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: MDR #: M5-04-0499-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

Clinical History:

The patient was injured while at work on ___. Injuries included the lower back, left shoulder, left knee and cervical spine. Treatment has included physical therapy, injection to the left shoulder, and arthroscopic surgery of the left knee.

Disputed Services:

Work hardening and aquatic therapy for dates of service 12/30/02 through 03/11/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and finds that the services in dispute were medically necessary.

Rationale:

The patient progressed in his work hardening program and benefited from the aquatic therapy. It is a logical extension that if, at four weeks of work hardening, a patient makes good strides towards his goals but does not quite make them, then an additional two weeks would be necessary. There is an extensive discussion in the Guidelines regarding the medical necessity and admission requirements of a work hardening program. The initial examination revealed decreased physical demand capacity. That, by itself, is not the only factor in determining admission requirements for the work hardening program. The rationale listed for placing the patient in a work hardening program included decreased PDC, poor endurance due to undocumented factors, decreased range of motion, and high subjective pain index noted. As stated in the medical documentation, at the end of six weeks of work hardening, the patient was anticipated to meet his goals. He was ultimately discharged from the work hardening program with the recommendation for a chronic pain program because he was unable to meet his goals.

As stated in the *Texas Medical Fee Guidelines*, "Entrance/admission criteria shall enable the program to admit: persons who are likely to benefit from the program; persons whose current levels of functioning due to illness or injury interferes with their ability to carry out specific tasks required in the workplace; persons whose medical, psychological, or other conditions do not prohibit participation in the program; and persons who are capable of attaining specific employment upon completion of the program." The patient did benefit from the work hardening program.

Further criteria listed in the *Spinal Treatment Guidelines* were used to determine medical necessity of work hardening. "The tertiary phase of care is interdisciplinary, individualized, coordinated, and intensive. It is designed for the injured employee who demonstrates physical and psychological changes consistent with a chronic condition. Psychosocial issues such as substance abuse, affective disorders, and other psychological disorders may be present. There is documented inhibition of physical function evidenced by pain sensitivity and non-organic signs such as fear which produce a physical inhibition or limited response to reactivation treatment. This phase of care may also be indicated for the injured employee whose physical capacity to work still does not meet the current or expected job requirements after adequate treatment, thereby causing an inability to return to full duty. This situation would be evidenced by an excessive transition period of light duty or significant episodes of lost work due to a need for continued medical treatment. This phase of care is also indicated for those injured employees who cannot tolerate either initial or intermediate phases of care." The patient benefited from the program as demonstrated in the last physical performance evaluation that was performed. He progressed from a light-medium physical demand capacity to a medium-heavy physical demand capacity. He was unable to perform at the physical demand level required by his employer prior to the entrance into the work hardening program. He ultimately could not meet the heavy PDC required by his employer. The retrospective review allowed for four weeks of work hardening that was performed. It is reasonable that an additional two weeks may have progressed the patient to a heavy PDC following the initial four weeks.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,